

## **REMARKS**

**[0003]** Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 1-3, 5-8, and 10-24 are presently pending. Claims 1, 8, 16, and 21 are amended herein. Claims 4 and 9 are cancelled herein. There are no new claims added herein.

### **Statement of Substance of Interview**

**[0004]** The Examiner graciously talked with me—the undersigned representative for the Applicant—on 7/23/08. Applicant greatly appreciates the Examiner’s willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

**[0005]** During the interview, I discussed how the claims differed from the cited references, namely Hidary and Brodsky. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

**[0006]** The Examiner was receptive to the proposals, specifically the clarification regarding the association between a closed captioning script and supplemental data. However, the Examiner indicated that he would need to review the cited art more carefully and/or do another search, and requested that the proposed amendments be presented in writing.

**[0007]** Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

### **Formal Request for an Interview**

**[0008]** If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

**[0009]** Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

### **Claim Amendments**

**[0010]** Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 1, 8, 16, and 21 herein. Applicant amends claims to clarify claimed features. Such amendments are made to expedite prosecution and more quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

**[0011]** These new claim amendments are fully supported by the Application and therefore do not constitute new matter.

## **FORMAL MATTERS**

**[0012]** This section addresses any formal matters (e.g., objections) raised by the Examiner.

### **Double-Patenting Rejection**

**[0013]** Based upon patent number 6,637,032, the Examiner rejects claims 1-6, and 8-21 on the grounds of non-statutory obviousness-type double-patenting. Accordingly, Applicant submits herewith a terminal disclaimer to overcome the provisional double-patenting rejection.

## **SUBSTANTIVE MATTERS**

### **Claim Rejections under §§ 102 or 103**

[0014] Claims 1-24 are rejected under 35 U.S.C. § 102 or § 103. In light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0015] Accordingly, Applicant respectfully requests that the § 102 and § 103 rejections be withdrawn and the case be passed along to issuance.

[0016] The Examiner's rejections are based upon the following references alone or in combination:

- **Hidary:** *Hidary, et al.*, US Patent No. 5,774,644 (issued June 30, 1998); and
- **Brodsky:** *Brodsky, et al.*, US Patent No. 5,809,471 (issued September 15, 1998).

### **Overview of the Application**

[0017] The Application describes a system and method that uses closed captioning script to synchronize supplemental data with specified junctures in a video program (Abstract).

## **Cited References**

**[0018]** The Examiner cites Hidary as the primary reference in the anticipation- and obviousness-based rejections. The Examiner cites Brodsky as the secondary reference in the obviousness-based rejections.

### **Hidary**

**[0019]** Hidary discloses a system for integrating video programming with information from the internet. The computer based system receives a video program and URLs either embedded directly into the video or through an internet connection at times specified by TV broadcasters in advance (Abstract).

### **Brodsky**

**[0020]** Brodsky describes a technology that enables a user watching and/or listening to a program to retrieve supplemental information pertaining to an item just heard.

## **ANTICIPATION REJECTIONS**

[0021] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

### **Based upon Hidary**

[0022] The Examiner rejects claims 1-3, 5-8 and 10-20 under 35 U.S.C. § 102(e) as being anticipated by Hidary. Applicant respectfully traverses the rejection of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

### **Independent Claims 1, 8, and 16**

[0023] During the interview, the Examiner agreed that if these claims were amended as discussed, that they would be allowable pending a more thorough review of the presently cited art and an updated search. Without conceding the propriety of the rejection, Applicant amends the claims in the manner discussed during the interview.

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<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

**[0024]** Further, Applicant reiterates a portion of the arguments presented during the interview, namely that the combination of claimed features are not shown or disclosed in the cited reference. Applicant draws particular attention to the emphasized portions of the following claimed features extracted from these claims:

- receive supplemental data sent to a multicast address, *wherein the received supplemental data relates to one or more key phrases of a closed captioning script*; and
  - initiate an enhancement action based upon the supplemental data to enhance the video program as the video program is being played, wherein the enhancement action is performed *without user interaction* ( from claim 1)
- 
- *associating supplemental data with at least one key phrase of a closed captioning script* by parsing the closed captioning script and determining an insertion point for the supplemental content; and
  - initiating, at the determined insertion point, an enhancement action based upon the received supplemental data to enhance a video program as the video program is being played, wherein the enhancement action is initiated *without user interaction* (from claim 8)
- 
- *means for relating one or more key phrases of a closed captioning script to supplemental data*; and
  - means for *listening to a multicast address* for the supplemental data (from claim 16)

**[0025]** Applicant reasserts that at least these claimed features are not shown in Hidary.

**[0026]** Accordingly, Applicant submits that the rejections relying upon Hidary are moot at least in view of the amendments presented herein, as Hidary does not disclose each and every claimed feature of these claims as currently amended.

**[0027]** Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claims 2-3, 5-7; 10-15; and 17-20*

**[0028]** These claims groups ultimately depend upon independent claims 1, 8, and 16, respectively. As discussed above, claims 1, 8, and 16 are allowable. It is axiomatic that any dependent claim, which depends from an allowable base claim, is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.



## **OBVIOUSNESS REJECTIONS**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

[0029] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

### **Based upon Hidary and Brodsky**

[0030] The Examiner rejects claims 4, 9, and 21-24 under 35 U.S.C. § 103(a) as being unpatentable over Hidary in view of Brodsky. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

### ***Independent Claim 21***

[0031] During the interview, the Examiner agreed that if this claim were amended as discussed, that it would be allowable pending a more thorough review of the presently cited art and an updated search. Without conceding the propriety of the rejection, Applicant amends this claim in the manner discussed during the interview.

[0032] Further, Applicant reiterates a portion of the arguments presented during the interview, namely that the combination of references Hidary and

Brodsky fail to teach or suggest at least the following claimed features (emphasis added):

- a key phrase module configured to:
  - identify one or more key phrases from the in a closed captioning script,*
  - and to associate supplemental data to the one or more key phrases identified from the closed captioning script, and*
- a program enhancement listener configured to listen to the multicast address for the enhancement action and initiate an enhancement action based upon the supplemental data to enhance a video program as the video program is being played, wherein the initiating the enhancement action is performed *without requiring user interaction*

**[0033]** Accordingly, Applicant submits that the combination of Hidary and Brodsky does not render this claim obvious at least because the Examiner has not presented a prima facie case of obviousness for this claim in its presently amended form, particularly for the above features in combination.

**[0034]** Applicant additionally notes, for the record, that during the interview, the Examiner indicated that he intended for the Brodsky reference merely to present evidence as to the state of the art at the time the invention was made, rather than for the teachings to be combined with Hidary to render the claimed subject matter obvious. The latter of these would require sound reasoning or motivation to combine.

**[0035]** Applicant submits the amendments herein without conceding that point.

**[0036]** For the forgoing reasons, Applicant asks the Examiner to withdraw the rejection of this claim.

*Dependent Claims 22-24*

**[0037]** These claims ultimately depend upon independent claim 21. As discussed above, claim 21 is allowable. It is axiomatic that any dependent claim, which depends from an allowable base claim, is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

**Dependent Claims**

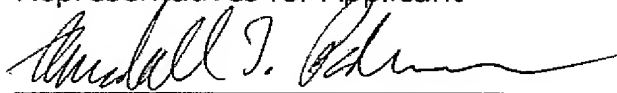
**[0038]** In addition to its own merits, each dependent claim is allowable for at least the same reasons that its base claim is allowable. Applicant requests the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

## **Conclusion**

[0039] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action**. Please call or email me or my assistant at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC  
Representatives for Applicant



Dated: 8/5/8

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